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Attorneys for Defendant
Louisville Ladder Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CESAR U. MORENO
CASTELLANOS, a/k/a CESAR
MORENO, an Individual.

Plaintiff,

VS.

LOUISVILLE LADDER INC.,
and DOES 1 to 25, Inclusive.

Defendants.

CASE NO. C 08-02009 BZ

Honorable Maxine M. Chesney

Defendant's Response to OSC re Remand

COMPLAINT FILED: March 21, 2008
Trial Date: None

To the Honorable Maxine M. Chesney:

Defendant Louisville Ladder, Inc. (“Defendant”) submits the following response to the Court’s June 26, 2008 Order To Show Cause why this action should not be remanded to the California Superior Court for the County of Napa.

RESPONSE TO OSC re REMAND

On April 17, 2008, Defendant filed a timely Notice of Removal under 28 U.S.C §1332(a) based on the diversity of citizenship of the parties. Defendant alleged that the amount in controversy exceeds \$75,000 based upon the Plaintiff's complaint in which he claimed damages for wage loss, hospital and medical expenses, general damages, loss of earning capacity, emotional distress, pain and

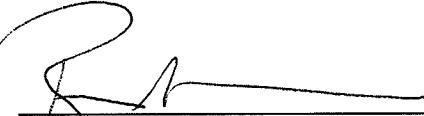
1 suffering, and permanent disability, and a description of the Plaintiff's injuries and
 2 damages by Plaintiff's counsel.

3 Plaintiff has since confirmed that his alleged damages exceed the amount of
 4 \$75,000 in his Voluntary Disclosure Statement Pursuant to FRCP, Rule 26(a).
 5 [Declaration of Randolph T. Moore, §3, Exhibit 1.] According to Plaintiff's
 6 Disclosure Statement, he fractured and severely twisted his thoracic spine at the T-
 7 11 and T-12 levels and is now disabled. Plaintiff is unable to work again in his
 8 prior occupation in the construction industry. Plaintiff has incurred \$36,039 in past
 9 medical expenses and \$45,750 in past wage losses. In this action, Plaintiff claims
 10 that he will sustain an economic loss of \$2,012,189 and a non-economic loss of
 11 \$2,235,625. Plaintiff seeks \$4.2 million in damages against Defendant. [Id.]

12 Since Plaintiff's stated claims exceed the amount in controversy requirement
 13 under 28 U.S.C §1332(a), Defendant respectfully submits that the Court should not
 14 remand this action to the Superior Court and asks that the Court withdraw its Order
 15 to Show Cause.

17 Dated: July 3, 2008

18 SNELL & WILMER L.L.P.

19 By: 

20 Randolph T. Moore
 21 Attorneys for Defendant Louisville Ladder
 22 Inc.

1 **Cesar U. Moreno Castellanos v. Louisville Ladder, Inc.**
2 **USDC – Northern Division**
3 **Case No. C08-02009 BZ**
4 **PROOF OF SERVICE**

5 I am employed in the County of Orange, State of California. I am over the age of
6 18 and not a party to the within action; my business address is 600 Anton
7 Boulevard, Suite 1400, Costa Mesa, California 92626.

8 On July 3, 2008, I served, in the manner indicated below, the foregoing document
9 described as:

10 **DEFENDANT'S RESPONSE TO OSC RE REMAND** on the interested parties
11 in this action:

Thomas J. Gundlach, Esq. 700 Larkspur Landing Circle, Suite 175 Larkspur, CA 94939	TEL: 415-925-9488 FAX: 415-925-9489
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13 **BY E-FILING (USDC Central):** I caused such document to be sent
14 electronically to the court; pursuant to General Order No. 08-02, electronic
15 filing constitutes service upon the parties who have consented to electronic
16 service.

17 **FEDERAL:** I declare that I am employed in the office of a member of the
18 bar of this Court, at whose direction the service was made.

19 EXECUTED on July 3, 2008, at Costa Mesa, California.

20

21 //s// Sandi Martinez
22 Sandi Martinez

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